

# MINUTES

## WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,  
Third Floor, Historic Courthouse,  
Boonville, Indiana, 6:00 P.M.  
Monday, November 15, 2010

**MEMBERS PRESENT:** Larry Willis, Chairman; Mike Winge, Vice Chairman; Tina Baxter, Don Mottley, Judy Writsel, and Terry Dayvolt.

Also present were: Sherri Rector, Executive Director and Secretary; Morrie Doll, Attorney; and Sheila Lacer, staff.

**MEMBERS ABSENT:** Tony Curtis.

**MINUTES:** Upon a motion by Mike Winge and seconded by Don Mottley, the minutes of the last regular meeting held October 25, 2010, were approved as circulated.

The Chairman explained the Rules of Procedure to the audience.

### **VARIANCES:**

**BZA-V-10-27** – Applicant & Owner: Donna J. Wells.

**PREMISES:** Property located on the W side of Yankeetown Rd. approximately 365' N of the intersection formed by Yankeetown Rd. (W 200) & Red Brush Rd. (S 650). Anderson Twp. 6433 Yankeetown Rd. (Complete legal on file.)

**NATURE OF CASE:** Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for a single family dwelling (manufactured home) to be located behind an existing unattached accessory building in a "CON" Recreation and Conservancy zoning district. *Advertised in the Boonville Standard November 4, 2010.*

Donna Wells was present.

The Chairman called for a staff report.

Mrs. Rector stated they have all of the return receipts from certified mail of notice to the adjacent property owners. She explained this is a Variance to allow a manufactured home to be located behind an existing accessory building. She stated the applicant states on her application: *"On September 2, 2010 I purchased property at 6433 Yankeetown Road. There was an existing 23' x 26' block garage and a house built in 1938 on the property. Since the purchase we have obtained a demolition permit and tore down the block building. The remaining structure is being remodeled to be an unattached garage. Due to the size and layout of the property, there is only one site that the manufactured home can be placed. It will have to be unattached and behind the existing structure. A new septic system has been designed and approved according to where the manufactured home will be located."* Mrs. Rector explained the ordinance requires the home to be located in front of or even with any unattached accessory building. She stated if she had 2.5 acres this would be allowed but she only has 1 acre so she had to file this Variance. Mrs. Rector then stated the surrounding property is all zoned "CON" Recreation and Conservancy with houses to the north, south and east; the property to the west is owned by Alcoa and vacant and there is no flood plain on the property. She then explained there is an existing driveway on Yankeetown Road. She added she was going to do a Hearing Officer for Mrs. Wells and she did obtain statements of non-objections from all of her adjacent property owners but was unable to obtain a signature for one and so she mailed out certified letters to all the adjacent property owners and appeared before the Board. She added the application is in order.

Mrs. Wells had nothing to add.

The Chairman called for questions from the Board.

Judy Writsel asked if the existing building is going to stay the same size, just putting in garage doors, a one humongous garage.

Mrs. Wells stated she has a picture of it and it is about 1000 square feet.

Terry Dayvolt stated it looks to him as if there is enough room to set the house in front of the garage and asked if there is some reason why it has to go behind.

Mrs. Wells stated if it goes in the front it will be right out on the road. She stated there is about a ten foot area off the road that drops and it would almost be in the road.

Terry Dayvolt stated so the ground between the building and the road has ravines on it.

Mrs. Wells stated yes, it drops down and there is only so much space between the existing building and the street.

Discussion ensued over the location of the buildings and the location of the approved septic and the location of the proposed home.

Larry Willis stated the pictures show two buildings, one looks like a barn.

Mrs. Wells stated that building is now gone.

Larry Willis asked if that was what she called the house.

Mrs. Wells stated no, that building was a block garage and they demoed it and the existing home is what they are turning into a garage.

Larry Willis asked if they are taking out the interior walls to make it into a garage and putting in garage doors and making it a three car garage.

Mrs. Wells stated yes, it is completely un-livable but the garage door is 9' x 12' but all of it won't be garage. She stated in the back they will have a mud room for her husband to use to change out of his work clothes because he is covered with coal ash when he comes home. She stated they were also going to have an extra storage room in there as well for tools.

Terry Dayvolt asked if they were keeping the bathroom.

Mrs. Wells stated they have already had Vectren come out, they capped off the gas at the road, so they have done away with the furnace and they have done away with the water heater and they are not going to have plumbing running to the garage. She stated everything is going to be brand new from the meter to the septic to the home.

Mike Winge stated they would be allowed to have a bathroom in that garage if they wanted.

Mrs. Wells stated they said they could later on run a "Y" and have a bathroom if they decided to do that.

Mike Winge stated now would be the time to put that in there while they are going through all this.

Ascertaining there were no other comments from the Board, the Chairman called for remonstrators.

Judy Stenack, Land Manager for ALCOA, Warrick Operations, stated she wants to mention that she has met with Mrs. Wells on this project and she was quite impressed with what she is going to be doing to improve this property. She stated she wants to comment that there isn't even a septic system on the property now, it is an open drain and that drain runs into ALCOA property and Mrs. Wells is putting in a professionally installed septic system and they are quite happy with that and so that is definitely a plus and an improvement. She added what they have done with the property so far has been a huge facelift; getting rid of the old barn in the back and these

are the kind of neighbors that ALCOA is interested in having and so this change in the zoning is not an issue for ALCOA and she doesn't see it ever being one.

Ascertaining there were no other remonstrators present and being no other comments from the Board, the Chairman called for a motion.

Don Mottley made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the location of Yankeetown Highway in close proximity to the structure.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practically difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
  - a) Subject to an Improvement Location Permit being obtained.
  - b) Subject to any required Building Permit from the Warrick County Building Department being obtained.
  - c) Subject to the property being in compliance at all time with the applicable zoning ordinance of Warrick County.
  - d) Subject to all utility easements and facilities in place.

- e) Subject to all Rules and Regulations of the local Health Department.

The motion was seconded by Mike Winge and unanimously carried.

Mrs. Rector informed Mrs. Wells she could come into the office on Wednesday to pick up her approval and obtain her permits.

**BZA-V-10-28** – Applicant: Lamar Outdoor Advertising by S. Carter Clarke, VP & GM. Owner: Busler Enterprises, Inc. by Charles Wolfinger, Pres.

**PREMISES:** Property located on the E side of SR 261 approximately 400' S of the intersection formed by SR 261 and SR 66. Ohio Twp. Pt. Parcel 2B Busler Minor Sub # 2. 7777 SR 66 (*Complete legal on file.*)

**NATURE OF CASE:** Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for an off premise billboard not meeting minimum 5' front or side yard requirements in a "C-4" General Commercial zoning district. *Advertised in the Boonville Standard November 4, 2010.*

S. Carter Clarke was present and passed out photographs to the Board. (copies on file)

The Chairman called for a staff report.

Mrs. Rector stated they have all the return receipts or unopened envelope from Steve Wickiser and Trinity Theological but they do have the white pay receipts. She explained this is a Variance to allow an off premises billboard not meeting the minimum 5' front and side yard requirement. She stated according to the submitted plot plan the closest point of the sign will be 4.6 feet from SR 261 right of way and will be 1 foot off the south adjacent property line. She stated the actual pole is 29' from the right of way and 5' from the south property line. She added the applicant's state on their application they want *"to clean up area aesthetically and correct corrosion on I-beams. Applicant would like to replace the four I-beams with a monopole structure. Upper structure will be same unit. Because of safety concerns with the numerous power lines on the property, and to conform to Lamar and OSHA safety standards, applicant is requesting a waiver of the required 5' setback from the property line."* Mrs. Rector stated the property to the north, east and south is zoned "C-4" General Commercial being various commercial enterprises; property beyond Busler Minor #2 to the East is zoned "R-2" Multi Family and "R-1A" being Broadview Subdivision Sec. "A" and the property to the west is zoned "C-3" being Family Video and New Odyssey Investments and other commercial enterprises. She stated there is no flood plain on the property and has an existing entrance on Old SR 261. She stated County Engineer, Bobby Howard has reviewed the site and plot plan and stated "Per your request an inspection was made along Old SR 261. If the proposed edge of the billboard is located 4.6 feet off the right of way line, as shown on the drawing provided to us, it would appear that sight distance is adequate." She stated the application is in order.

Mr. Clarke stated the two unclaimed letters came back to them and he submitted them to staff.

Larry Willis asked if they are going to remove the existing I beams structure and put up a mono pole structure.

Mr. Clarke stated yes, the picture they have labeled #2 gives them an example of what it would look like afterwards. He stated it won't change in any other size than that. He stated they will upgrade the catwalks to be safer.

Larry Willis stated in looking at the two pictures he assumes they were taken from different angles.

Mr. Clarke stated no, the bottom picture is one from a different location; it is just to give you an idea of what it will look like.

Don Mottley stated picture #1 shows the State right of way and then it shows the steel post and then it looks like a wooden post. He asked if that is the four feet six inches.

Mr. Clarke stated the edge of the sign would be within four feet six inches of the right of way line. He stated they found out during the survey among other things it appears to the north the landowners property pin is actually on the right of way.

Mrs. Writsel asked if the new sign will then infringe on the right of way a little less than the current one.

Mr. Clarke stated yes, they will be further off. He stated one of their major concerns is to be further away from the power lines than they currently are. He stated the power lines occurred after the sign was built in maybe the '80's or even prior to that. He added they were never consulted when the power lines went through; they are within OSHA standards but Lamar has a stricter policy as far as clearance from power lines and so they want to move it further away. He stated they have worked with the property owner to the south (veterinary clinic) and talked about moving close to his lot line.

Mrs. Rector stated for the record she wants to mention they do have a recorded power of attorney to represent Busler Enterprises at this meeting.

Mrs. Writsel asked if the sign will stay at the same elevation.

Mr. Clarke stated it will; there will be relatively no changes other than the I-beams going to a single pole and maybe a walk around.

Larry Willis asked Mrs. Rector if it makes any difference since SR 261 is now County and not State.

Mrs. Rector stated the set back requirements are the same.

Larry Willis asked if the State still controls outdoor advertising.

Mrs. Rector stated they do on off premise signage but not on premise signs.

Larry Willis stated this is off premise signage to which Mrs. Rector stated it is and their permits will say "Subject to any required State Permit."

Mr. Clarke stated they have obtained their State Permits for this sign.

Ascertaining there were no questions from the Board and being no remonstrators present, the Chairman called for a motion.

Mike Winge made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is ...
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.

5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
  - a) Subject to an Improvement Location Permit being obtained.
  - b) Subject to any required Building Permit from the Warrick County Building Department being obtained.
  - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
  - d) Subject to all utility easements and facilities in place.
  - e) Subject to any State or Federal Permits.

The motion was seconded by Judy Writsel.

Attorney Doll stated Mr. Winge did not complete item #3. He then asked Mrs. Rector if they have acquired additional right of way for Old SR 261.

Mrs. Rector stated they did and it is shown on the plot plan. She stated the measurements are from the new right of way.

Attorney Doll stated that is a special fact that they have widened Old SR 261 and they moved the right of way closer to the existing sign which now necessitates the replacement of the existing sign.

Judy Writsel rescinded her second. Mike Winge then amended his motion to include "The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the close proximity of the new SR 261 right of way to the space where the existing sign being replaced exists."

Judy Writsel seconded the amended motion and it unanimously carried.

Mrs. Rector informed them they could pick up their approval on Wednesday.

**OTHER BUSINESS:**

### **Ruling of APC regarding Special Uses**

Mrs. Rector stated the Plan Commission has decided to change the notice to a twenty-one day requirement and that will take an amendment to the Comprehensive Zoning Ordinance.

Attorney Doll stated the reason for that was because of the Post Office.

Mrs. Rector stated the Post Office will hold certified mail for 15 days so they wanted to make sure that it has time to get back. She stated the ten day notice they currently require, as was seen tonight, a lot of times the letters don't get back before the meeting. She stated they run into this all the time at their meetings so they are going to change it to 21 days.

Mrs. Rector stated they also talked about the notice requirement for the mines in that there would be a...

Attorney Doll stated Marco DeLucio is present this evening representing Peabody Coal Company. He stated they will recall they talked about this before. He stated their current requirements are when an application for a Special Use to allow among other things, a mine; as a provision it requires the application to be signed by the applicant and the owner and both must be present at the public hearing for it to be considered. He stated Marco DeLucio represents Peabody Coal Company, and they are considering bringing a mine Special Use (SU 13) before the Board that entails 100's and 100's of acres of ground, some of which Peabody outright owns the coal rights to, some of which Peabody may have leased the coal rights to and someone else owns the surface. He stated technically that someone else is the property owner and the difficulty they are having with such a large application is to get the co-operation of the land owners. He stated over the course of many years where ground has been leased by an ancestor for coal purposes for mining purposes and then that person passes on and wills their surface rights to kids and grandkids you have this inability to get all the necessary people involved in this room, or to hire an attorney to represent them in this room or to sign a power of attorney for someone to represent them in this room. Attorney Doll stated unless you have all of them present you couldn't meet the current requirement. He stated what they have been talking about is amending the rules and then necessary the ordinance. He reminded them they spoke of this at a prior meeting creating what he terms a "super notice" ; not just like the one that goes to the abutting land owners but a notice that would go to the land owner of the property to which the Special Use is applicable that would advise them of their rights to be present; advise them of what they were doing or what they are trying to do and giving them the opportunity to be here to ask questions under the zoning code only as they deem necessary. He stated they are not going to get into disputes or issues between Peabody Coal Company and land owners, but frankly dealing only with the subject matter of granting a Special Use and whether it meets the unique and special circumstances that our objectives of the ordinance entail. He stated they would also have to change the application because the staff does not have the where-with-all to ascertain just who all the owners would be, particularly if they were bringing 100's of acres of potential coal mine property in a single application. He stated they don't have the time or the resources to be able to do that, so they would turn to the applicant and ask them to certify upon the pains of penalty of perjury that here is a listing of all of the land owners affected by this application and upon reliance of that they would require the notice to go out to them as well. He stated this is a departure of the current practice. He stated they will do this for no other Special Use but there are circumstances unique to this; first of all it is his opinion as their counsel, that they have competing, legal due process rights. He stated no doubt the land owners have rights to be here, they have a right to be heard and to listen to what is proposed and ask questions, but no doubt about it – Peabody Coal Company has certain due process rights as well. He stated they are either the owner of the land or the owner of the lease of the coal and they have an economic interest in it as well. He stated if they don't allow some kind of modification of their current practice and they are unable to get the land owners to show up or hire a lawyer to show up or give a power of attorney they in effect have no ability to receive an SU 13 under the ordinance.

Attorney Doll stated in that case they would have to surgically remove parcels of property from their application and mining doesn't seem to lend itself to that. He stated there was a debate as to whether they should just remove the requirement of an SU 13 and some of them favored that but if they remove that from the ordinance you have no local review process what so ever on the mineral extraction it would just be determined by the Indiana Department of Natural Resources. He stated since Warrick County is a large coal producing county they may not want to do that.

He stated the question is are they going to move forward with this, he is sure Peabody is anxious to know because they have 1,000's of acres they intend to bring before them.

Attorney Doll stated on the agenda tonight it was applicant and owner and what they are talking about in the plainest terms is the applicant being allowed to make such an application and they would hear it with just the applicant provided all the extra steps have been taken. He stated if they decide to do this he would caution them to make that a rule applicable only to SU 13. He stated he doesn't think they want to do this for a commercial baseball field or borrow pit or home occupation. He stated those are easy to get the owners in; they are talking about applications where they have multiple owners affected by a permit and involving large acreage. He stated if they decide to make this change to allow applicants to proceed without the owners' participation but with the owners' notification, they have options. He stated they could say they only want to do it in coal applications involving more than 100 acres or something of that sort so they don't just give them cart blanche to waive the owners being here for every other type of event or even small types of mining extractions. He asked Mrs. Rector if she felt the Plan Commission was generally favorable to this.

Mrs. Rector stated she thinks so and at the last meeting this Board approved him putting a notice together and bringing it to them.

Attorney Doll stated he needs direction. He asked are they doing it in general for all mining; are they doing it on a limited basis and on small mines are you still going with the owners. He stated he and Marco can work together to draft some sort of an application that would certify the owners, name, address, etc. upon the penalty of perjury placing publication requirement and the notification would be greater than the notification by the land owner. He stated it would explain other rights they may have as the true owner of the surface and how they get that verification that the notices went out. He stated his question is, is it for all mines or is it for mines above a certain acreage.

Mike Winge stated he has a couple of questions. He stated if they are putting this together are they going to bring it back to the Board for them to look over and discuss before it goes.

Attorney Doll stated it may take an amendment of both the ordinance and the Rules of Procedure.

Mrs. Rector stated it will take both.

Mike Winge stated he is looking for consistency with the general public and being fair to everyone and not leaving anything out. He stated say they have a property owner who has 100-300 acres and there are subdivisions built around that and property is abutting it.

Attorney Doll stated they won't be touching that because in his hypothetical the surrounding subdivisions are abutting land owners and they will have to get notice to them. He stated in his case it is one owner and so that wouldn't be a hardship to get that one owner to participate in the application or petition. He stated it is where you have the opposite – you have dozens of owners of the affected ground.

Mrs. Rector stated she thought by the Minutes and the way everyone talked it was strictly going to be an SU 13; a notice written for it. She stated they went over the property owners, the coal mines rights and she thought they had already decided that and sent it to the Plan Commission who talked about it.

Attorney Doll stated somebody asked if it should be applicable to full size mines or little mines or just mines in general. He stated that is the question he has tonight.

Terry Dayvolt stated he thought they discussed that it would be multiple owners and they were going with six.

Attorney Doll stated that six isn't in the minutes.

Mrs. Rector stated she doesn't remember that in the minutes.



Mike Winge stated he thinks that was going to be determined later to put a limit or a number on it.

Attorney Doll stated it would be hard to draft it. He stated they could put a variable in there and then put it in but that variable is critically important.

Mike Winge asked if they could do it case by case.

Attorney Doll stated they could not, they have to have certainty and they will get sued if they do it case by case.

Mrs. Rector stated she thought they were talking about twenty acres or twenty owners.

Attorney Doll stated that is why they are here because there is some confusion and he needs some clarification.

Don Mottley stated he thought it was for the entire SU 13 which meant oil, gas, coal and where it had multiple land owners, two or more.

Attorney Doll stated so the ruling of the Board would be they should draft such an amended process and bring it back to them that would change the rules and would have a new application process and involves any mining application as an SU 13 in which the owner would not have to be a participant.

Terry Dayvolt stated where there are two or more owners or multiple owners.

Mrs. Rector stated so they are going to amend the Comprehensive Zoning Ordinance under the Special Uses where it tells of ten day notice. She stated they can put in certain criteria.

Attorney Doll stated the ten day rule is under Article V, Section (5b).

Mrs. Rector stated they are going to change the ten to 21 days. She stated then they will have to amend the Rules of Procedure when the applications have to be filed and then they will create a new Section (f) for the SU 13.

Attorney Doll stated it will apply to any SU 13 application with two or more owners, regardless of the acreage.

Mrs. Rector stated they will go ahead and get these advertised so it can go to the Plan Commission because they are the Board that approves the ordinance changes; this Board is just saying they would like them to change them.

Discussion ensued over advertising deadlines and schedules for Attorneys Doll and DeLucio and Mrs. Rector to discuss the changes.

Attorney DeLucio stated Peabody is anxious to move forward and he knows getting this done by next week is not practical. He stated they are probably looking at a January time frame to get that done.

It was discussed they will meet Tuesday, November 30, 2010 at 10:00 am in the Plan Commission Office. It was also discussed they shouldn't adopt the Rules of Procedure at the first of the year since they will be changing.

Terry Dayvolt made a motion that the Board of Zoning Appeals instructs Attorney Doll and Mrs. Rector to meet with Attorney DeLucio and form a revision of the SU 13 to be presented to them at the December meeting. That the revision is to include all of the SU 13 with multiple, two or more owners and ask the Plan Commission to make the ordinance changes. The motion was seconded by Don Mottley.

Mrs. Rector stated she wants them to understand that in order for this to be in front of the Plan Commission in January it will have to be advertised in December and it will already be in the paper by the time this Board holds its meeting. She stated she will let them know what they are doing.

Larry Willis clarified Mr. Dayvolt wasn't instructing Attorney DeLucio to meet with Attorney Doll and Mrs. Rector.

Terry Dayvolt stated his motion was giving Attorney Doll and Mrs. Rector permission to meet with him.

The Chairman stated there is a motion and second on the floor. The motion carried unanimously.

**ATTORNEY BUSINESS:**

None.

**EXECUTIVE DIRECTOR BUSINESS:**

Mrs. Rector stated you are only allowed to have one residence on a piece of property, otherwise you have to get a Variance, even if you have an old house and are going to knock it down. She stated the situation they ran into the other day was a person came in who had a mobile home on their property and they got a permit for a manufactured home in the exact same location as the old one. She stated they had the paper from the Treasurer's Office showing the taxes had been paid in order for them to move the mobile home. She stated now they find out that instead of taking the mobile home off the property they have drug it to the back of their property and put the new one in.

Attorney Doll stated it is in violation.

Mrs. Rector stated they can control houses but what she wants to know is if someone comes in and they have a mobile home or manufactured home and wants to replace it can they tell them they have to have an inspection before they get a permit.

Attorney Doll asked if the application for the permit state they are stating the existing structure is going to no longer on the property.

Mrs. Rector stated they can make them do that.

Attorney Doll stated that should be added to the application and then they should say it requires an inspection before they get the permit. He stated the problem will be when they want to live in one structure and build the new one.

Mrs. Rector stated that is a Variance.

Mike Winge stated the Building Department has to issue a Certificate of Occupancy and they could work with them to make sure they didn't get that until an inspection has been done. He stated that would solve the problem.

Mrs. Rector stated she can't tell the Building Department or Inspector how to do their jobs.

Mike Winge stated he is just saying they can easily do that because they have to do inspection.

Discussion ensued over what could happen in these circumstances.

Attorney Doll stated they need to verify and if they have cases where maybe they deliberately misled them then they should be sent a violation notice and ask them to come in to see if they can get a Variance to allow two residences on the lot. He stated if they don't respond to the notification he can file an ordinance violation against them.

Mrs. Rector asked if they want to make a motion.

Larry Willis made a motion that an inspection be done (for a mobile home) prior to a permit being issued and have them certify the mobile home is being removed. The motion was seconded by Mike Winge and unanimously carried.

Being no other business the meeting adjourned at 7:10 pm.

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Larry Willis, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Area of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held November 15, 2010.

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Sherri Rector, Executive Director & Secretary